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Mr. Robert R. Simmons
Staff Director
Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

Dear Rob:

Since there is only a week and a half left until Congress returns, I think now is the time to plan our strategy to assure the enactment of S. 1324. In this connection, I thought I would bring you up to date as to the current status of this legislation. I would appreciate your circulating this letter among those SSCI staffers who have worked so hard on this legislation preparatory to our having a meeting on this subject early on to see where we go from here.

After the HPSCI unanimously reported out H.R. 5164, we found ourselves facing the greatest challenge yet, that of moving the legislation through the House Government Operations Subcommittee on Government Information, Justice, and Agriculture, chaired by Representative Glenn English. The Subcommittee staff made it clear early on that Chairman English would consider moving this legislation only if the (b)(3) amendment were added on. For a period of time, we were also told that the legislation would not be reported out of the Subcommittee until assurances had been received that the Senate would accept the legislation with that amendment. Obviously, we did not accept that condition and eventually that condition was dropped by Representative English's staff. The Subcommittee reported H.R. 5164 with the addition of a reporting requirement, which CIA found totally acceptable, and the Privacy Act amendment. The full Government Operations Committee reported the bill out the following week with one lone dissenting vote from Representative Ted Weiss.

House Government Operations staff are now finishing the report for H.R. 5164 and plan to file it the day Congress returns. Our current understanding is that this legislation will be brought up on the suspension calendar the week of 10 September and S. 1324 will be passed by the House with the language of H.R. 5164 substituted for the text of S. 1324.

As you recall, there was an exchange of letters between Chairman Goldwater and Vice Chairman Moynihan and Chairman Boland and Ranking Minority Member Robinson earlier in the year which indicated that--the SSCI would be willing to accept a modified version of the legislation. Therefore, we believe that we have achieved the long sought after goal of FOIA relief legislation which is acceptable to all parties concerned. The only remaining impediment is the controversy surrounding the Privacy Act amendment.

The Department of Justice (DOJ) remains adamant in its opposition to the (b)(3) amendment. John McMahon was specifically so informed by Deputy Attorney General, Carol Dinkins, in a conversation earlier last week. On the other hand, the DOJ, knowing that Mr. English's Subcommittee is urgently desirous of seeing the (b)(3) amendment enacted, is attempting to use this issue as a bargaining chip to gain some concessions from Mr. English toward enactment of certain provisions of S. 774. Consequently, an 18-month deadlock has been broken and DOJ and Mr. English's Subcommittee, together with outside interest groups such as the business community, press groups and the ACLU, are currently in the process of heavy negotiations to see whether a compromise on S. 774 can be achieved. While I understand that negotiations are going well it is, in my judgement, doubtful that a compromise can be reached which can be translated into a bill that can be enacted in this Congress. However, I am informed by the DOJ that if an agreement can be reached on a compromise S. 774, then--but only then--will the DOJ abandon its opposition to the (b)(3) amendment. If the issue is not resolved early on, Mr. Casey has indicated a willingness to take the issue to the President. Thus, I would hope that a firm Administration decision will be communicated to the concerned Senators in a timely fashion.

One obvious suggestion for solving this dilemma that has occurred is to strike the (b)(3) amendment when S. 1324 comes to the Senate and send the CIA Information Act minus that amendment back to the House in the hope that the House would pass it or a suitable compromise can be reached in conference. In our best judgement, this approach stands no chance of success.

We have all worked very hard to reach this point and we cannot afford to give up now. The DCI has stated that he considers enactment of FOIA relief legislation of paramount importance. We are hopeful that some accommodation can be reached on S. 774 in the coming week. If not, we are willing to pursue every available avenue to us within the Administration to gain Senate acceptance of S. 1324 as

amended. Inaction at this point will clearly endanger the legislation. Therefore, I would appreciate it if you would inform Chairman Goldwater, Vice Chairman Moynihan, and those Members who were heavily involved in the drafting of S. 1324, of the status of this legislation so that they will have an opportunity to take any action they feel is appropriate.

I also think it is essential that we meet with you and the staff concerned with this legislation as soon as possible so that we can discuss and develop an appropriate legislative strategy. This identical letter is also being sent to Peter Sullivan.

Sincerely,

/s/Charles A. Briggs

Charles A. Briggs
Director, Office of Legislative Liaison